THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 459 OF 2007

DATED: 05-01-2007

Between:

Jogini Narsaiah, S/o. Narsaiah
and 29 others

… Petitioners

And

The Government of A.P.,
Rep. by its Secretary,
Department of Revenue Endowments),
Secretariat, Hyderabad
and six others

… Respondents

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WRIT PETITION NO. 459 OF 2007

ORDER:

Petitioners claim to be the owners of small extent of lands in Sadashivanagar village and Mandal, Nizamabad District.

They assert that their village is an Ex-Jagir village. Jagirs were abolished by the provisions of A.P.(Telangana Area)(Abolition of Jagirs) Regulation 1359 fasli. According to the petitioners their predecessors were in possession of these lands for over 100 years and during the jagir period, their predecessors and forefathers paid land revenue to the jagirs. After amalgamation of the jagirs, they paid the land revenue to the State.

The Samstan was spending the revenue generated from these lands by way of land revenue towards celebration of poojas at Sri Visweswara Swamy Temple, which was constructed by Jagirdar in the village in 1304 fasli. For convenience of the maintenance of accounts in the jagir and for division of income among other share holders, the

jagirdar might have set apart the land revenue of certain lands for spending the amounts derived there from for the purpose of the poojas at the temple by way of a private arrangement, which does not derogate from the rights of the petitioners to entitlement to possession and enjoyment of the lands in question.

According to the petitioners, the Revenue Divisional Officer, Kamareddy by an order dated 23-11-1952 held that there was no evidence to conclude that the lands in possession and enjoyment of the ryots (petitioners) either belonged to the temple or was granted as service inam. The Revenue Divisional Officer held that the lands do not constitute inam lands. The then Tahsildar also passed an order on 09-12-1965 rejecting the claim of the Endowment Department that the lands belong to the temple.

While so, the seventh respondent by a notice dated 14-12-2006 informed the petitioners that the leases of the agricultural lands of the temple, in favour of the petitioners stood cancelled in view of the provisions of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987(the Act); that the leasehold rights for the lands in question are proposed to be granted in accordance with the relevant rules; and the petitioners should hand over the possession of lands within 30 days, failing which, they would be evicted by invoking the provisions under Sections 84 and 87 of the Act treating the petitioners as encroachers.

Assailing the notice issued in Form No.1 (relatable to Rule 5(1) of the Rules, 2003), on an assertion that they could not be treated as encroachers in view of the temple having no right over the lands in question and the petitioners are entitled to continue in occupation and possession thereof, the writ petition is filed.

The impugned notices issued by the 7th respondent merely project the endowment position in the matter. The petitioners are at liberty to respond to these notices putting forth their claims to title, ownership and possession of the lands in question. In case the 7th

respondent or any of the official respondents decline to countenance the petitioners' claims and proceed to initiate proceedings under Section 83(4) of the Act, the petitioners are at liberty to put forth their defence to such proceedings, in such proceedings.

In the circumstances and on the analysis above, this Court finds no justification to interfere under Art.226, at this stage.

Writ petition is accordingly dismissed with a liberty to the petitioners to defend any action initiated against them under Section 83 of the Act, after hearing the learned counsel for the petitioners and the learned Government Pleader for Endowments. There shall however be no order as to costs.

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GODA RAGHURAM, J.

Dt: 05-01-2007
Rns